

## JAMES M. HAYS

MAY 25, 1942.—Ordered to be printed

Mr. CAPPER, from the Committee on Claims, submitted the following

## REPORT

[To accompany H. R. 5680]

The Committee on Claims, to whom was referred the bill (H. R. 5680), for the relief of James M. Hays, having considered the same, report favorably thereon with the recommendation that the bill do pass without amendment.

The facts are fully set forth in House Report No. 2008, Seventy-seventh Congress, second session, which is appended hereto and made a part of this report.

[H. Rept. No. 2008, 77th Cong., 2d sess.]

The Committee on Claims, to whom was referred the bill (H. R. 5680) for the relief of James M. Hays, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

The purpose of the proposed legislation is to pay to James M. Hays the sum of \$750 for personal injuries sustained as the result of a collision between the car which he was driving and a United States Immigration and Naturalization Service car on March 2, 1940, in the city of Los Angeles, Calif.

## STATEMENT OF FACTS

On March 2, 1940, Mr. Hays was proceeding in a northerly direction along Figueroa Street, a six-lane highway in Los Angeles, Calif. As he approached Fifty-seventh Street, the claimant made a left-hand turn into that street, and while making the turn, his car was struck by an automobile of the Immigration and Naturalization Service, which was proceeding in a southerly direction along Figueroa Street, causing the car Mr. Hays was driving to overturn. As a result of the accident, Mr. Hays was admitted to the White Memorial Hospital where he remained for 10 days and where his injuries were diagnosed as fracture of the right rib, emphysema of the right lung, traumatic interstitial, right side. On October 5, 1941, he was again examined by the hospital doctors, who set forth that he was still complaining of stiffness in the right shoulder, and an orthopedic doctor on the hospital staff made the following note:

"Patient has mild right subdeltoid bursitis. Pain in region of ribs is entirely gone—no limitation of function."

Mr. Hays has incurred medical expenses in the amount of \$64.20. The Attorney General of the United States, in a report dated January 15, 1942, recommends

the enactment of the legislation, in whose recommendation your committee does concur. Appended hereto is the report of the Attorney General together with other pertinent evidence.

GENERAL ACCOUNTING OFFICE,  
Washington, D. C., January 15, 1942.

Hon. DAN R. McGEHEE,  
*Chairman, Committee on Claims,  
House of Representatives, Washington, D. C.*

MY DEAR MR. CHAIRMAN: This acknowledges your letter of September 22, 1941, requesting my views relative to a bill (H. R. 5680) to authorize and direct the payment of the sum of \$750 to James M. Hays, of Los Angeles, Calif., in full settlement of his claims against the United States for personal injuries said to have been sustained by him as the result of a collision between his car and an automobile of the United States Immigration and Naturalization Service on March 2, 1940, in Los Angeles, Calif.

It appears from the files of the Immigration and Naturalization Service of this Department that on March 2, 1940, at approximately 11:15 a. m., the claimant was proceeding in a northerly direction along Figueroa Street, a six-lane highway in Los Angeles, Calif. As he approached Fifty-seventh Street the claimant made a left turn into that street. While he was making the turn, the claimant's car was struck by an automobile of the Immigration and Naturalization Service which was proceeding in a southerly direction along Figueroa Street. The claimant's car was overturned and the claimant sustained personal injuries. He presented a claim of \$46.88 to the Immigration and Naturalization Service for damages to his car, pursuant to the provisions of the Small Claims Act of 1922 (42 Stat. 1066, U. S. Code, title 31, secs. 215-217) which provides for the administrative settlement of claims for property damage not exceeding \$1,000 caused by the negligence of a Government agent. Upon finding that the accident was due to the negligence of the driver of the Government car, who was said to have been proceeding at an excessive rate of speed and to have been cutting in and out of line, the Government paid the claimant the sum of \$46.88 for damages to his car.

As a result of the accident the claimant sustained a broken rib and a punctured right lung. He was confined to a hospital for 10 days and incurred medical expenses in the sum of \$64.20. He was 79 years of age at the time of the accident.

The purpose of the legislation is to pay Mr. Hays \$750 as compensation for pain and suffering and to reimburse him for his medical expenses.

In view of the foregoing considerations, I find no objection to the enactment of the bill.

Sincerely yours,

FRANCIS BIDDLE, *Attorney General.*

#### AFFIDAVIT OF JAMES M. HAYS

On March 2, 1940, I suffered a dislocated shoulder, a broken rib, neck injury, lung puncture, laceration on the left ear and left hand, and numerous bruises on the body as results of an automobile collision referred to in my affidavit of July 1940, heretofore filed.

I have occasional pain in my right shoulder and right arm and occasional catch which produces pain in the right side in the vicinity of the broken rib. The function of my arm is practically normal. I feel fairly well and I am practically recovered from those injuries. I took treatments for 3 months after the injuries.

I have incurred obligations in the sum of \$5 for ambulance services, the sum of \$54.60 at the White Memorial Hospital, and the damage to the automobile, which has been paid by the Government.

In witness whereof I have hereunto set my hand and seal this 6th day of October 1941.

JAMES M. HAYS.

Subscribed and sworn to before me this 6th day of October 1941.

[SEAL]

BARRY SULLIVAN,

*Notary Public in and for Los Angeles County, Calif.*

## CERTIFICATION

I, the undersigned, hereby certify that I am a notary public in and for the county of Los Angeles, State of California; that James M. Hays appeared before me and made the statements hereinabove written and swore to the same in my presence, and I hereby certify that the statements set down in writing are the statements made by the said James M. Hays under oath, October 6, 1941.

BARRY SULLIVAN.

## AFFIDAVIT OF NELS SWANSON

STATE OF CALIFORNIA,

*County of Los Angeles, ss:*

Nels Swanson, being first duly sworn, deposes and says: That on March 2, 1940, I was driving my automobile in a southerly direction on Figueroa Street, County of Los Angeles, State of California, a public highway in said county and State. A car passed me on the right-hand side going in the same direction that I was going at a speed of about 55 miles per hour. The car turned left, passed another car on the left-hand side, then turned right to the right-hand side of the street. This car had the letters "U. S." stamped on the side of the car. When I was about Fifty-sixth and Figueroa I heard the crash of this automobile with another car at the intersection of Fifty-seventh and Figueroa. I proceeded to this intersection and found the same automobile I had seen with the letters "U. S." on it stopped. The occupants of the car stated to affiant that "you better be careful how you talk," pulled the lapel of his coat back, and showed an officer's badge. That affiant was close enough to occupants to get the odor of the breath, which was alcoholic.

NELS SWANSON, *Affiant*.

Subscribed and sworn to before me this 28th day of May 1940.

[SEAL]

BARRY SULLIVAN,

*Notary Public in and for the county of Los Angeles, State of California.*

## AFFIDAVIT OF LORAIN E. SHELL

STATE OF CALIFORNIA,

*County of Los Angeles, ss:*

Loraine E. Shellow, being first duly sworn, deposes and says: That I was driving in a southerly direction on Figueroa Street between Fifty-sixth and Fifty-seventh on March 2, 1940. Figueroa Street is a public highway in the county of Los Angeles, State of California. That an automobile with the letters "U. S." stamped on the side passed my car on the right and on the right of another car next to mine at a speed of about 45 miles per hour and close to the curb. There are three lanes on Figueroa Street. I had slowed the speed of my automobile and the automobile to my right had slowed down to permit a car coming northerly on Figueroa Street to turn left at the intersection of Figueroa and Fifty-seventh Street. The car with the letters "U. S." stamped on the side passed our cars (which had stopped), on our right and proceeded into the intersection and struck the car driven by James M. Hays about the center of the car as he was completing his left-hand turn on Fifty-seventh Street, with such force that it overturned said car.

LORAIN E. SHELLOR or MRS. E. P. SHELLOR,  
*Affiant*.

Subscribed and sworn to before me this 28th day of May, 1940.

[SEAL]

BARRY SULLIVAN,

*Notary Public in and for the county of Los Angeles, State of California.*

WHITE MEMORIAL HOSPITAL,  
Los Angeles, Calif., September 30, 1941.

James Hays, 3332 Winter Street, Los Angeles, Calif.:

		Debit	Credit
Mar. 2	Laboratory.....	\$3.00	
	Receipt 7475.....		\$38.50
	Suture.....	1.00	
	X-ray, shoulder and ribs.....	5.00	
	Medicines.....	.10	
	Liver extract.....	3.15	
5	Urinalysis.....	1.00	
6	Medicine.....	.20	
7	do.....	.20	
9	7 days.....	28.00	
	Tax.....	.10	
8	Supplies.....	.25	
	Medicine.....	.30	
10	do.....	.20	
12	Receipt 7998.....		16.10
	Medicine.....	.10	
	3 days.....	12.00	
	Total.....	54.60	54.60

Entered, March 2, 1940, 4 p. m.; left, March 12, 1940, 4 p. m.

This is to certify that the above-rendered statement of charges is correct. That they are in accordance with the regular listed charges for services per our routine price list.

HAROLD ERMSHAR,  
Manager, Patients Business Office.

WHITE MEMORIAL HOSPITAL,  
Los Angeles, Calif., October 5, 1941.

*To Whom It May Concern:*

Mr. James Hays has requested further statement concerning his condition at the present time and also immediately following his accident in March 1940. He was in the hospital from March 2 to March 12, 1940. At that time X-ray showed a fracture of the right third rib in the middle third. The right lung was evidently punctured, causing extensive subcutaneous emphysema.

Mr. Hays came to our orthopedic clinic today (October 5) for an examination to determine any limitations of function that might be caused by this injury. He states he feels fairly well, except that his right shoulder is not as good as previous to the accident. He has occasional pain but function is practically normal.

Our orthopedic doctor made the following note: "Patient has mild right subdeltoid bursitis. Pain in region of ribs is entirely gone—no limitation of function."

We trust that this report will complete the medical evidence necessary to settle Mr. Hays' claim.

Very truly yours,

WHITE MEMORIAL CLINIC,  
O. B. PRATT, M. D.,  
Medical Director.

WHITE MEMORIAL HOSPITAL,  
Los Angeles, Calif., May 23, 1940.

*To Whom It May Concern:*

Mr. James Hays was admitted to our hospital March 2, 1940, being brought in by ambulance. He stated that his car had been struck by another automobile the previous day, and he had been taken to Georgia Street Receiving Hospital in this city.

He was in the hospital from March 2, 1940, to March 12, 1940. Two X-ray films were taken with the following reports:

"Right chest: The film is somewhat underexposed. No fractures are demonstrated but there is extensive soft tissue emphysema throughout the axillary region, the neck, and about the pectoral muscles. Further examination is advised" (March 2, 1940).

"X-ray shadows disclose a fracture of the right third rib in middle third, and it is evident that the lung was punctured, permitting escape of air and extensive tissue emphysema throughout the neck, shoulder, arm and shoulder regions" (March 5, 1940).

Diagnosis was fracture of right rib, and emphysema of lung, traumatic, interstitial, right side. Mr. Hays left the hospital improved in condition and is now being cared for through our out-patient department.

Very truly yours,

WHITE MEMORIAL CLINIC,  
O. B. PRATT, M. D.,  
*Medical Superintendent.*

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